



North Gallatin Canyon Zoning Regulations

Adopted: _____, _____, 2009

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SECTION I: GENERAL PROVISIONS

1.1 Title, Creation and Adoption.

- 1.1.1** These Regulations shall be known as the North Gallatin Canyon District Regulations (“Regulations”). They are adopted for the North Gallatin Canyon Zoning District (“District”), which was adopted on November 10, 2009.
- 1.1.2** These Regulations are adopted pursuant to § 76-2-201, MCA, *et seq.*, in accordance with the Gallatin County Growth Policy (“Growth Policy”).
- 1.1.3** Copies of these Regulations and Zoning Map are on file for public inspection with the Office of the Gallatin County Clerk and Recorder and the Gallatin County Planning Department (Planning Department).

1.2 Legal Description.

Land within the North Gallatin Canyon Zoning District is legally defined as the following:

Township 1 South, Range 4 East

Section 5	All land west of the centerline of the Kleinschmidt Canal
Section 8	West ½ of the Southwest ¼; the Northwest ¼; and the Northwest ¼ of the NE ¼
Section 7	All
Section 17	All
Section 18	All
Section 19	All
Section 20	All
Section 28	All
Section 29	East ½; the Northeast ¼ of the Northwest ¼
Section 33	All

1.3 Application of Regulations.

- 1.3.1 Application.** The requirements established by these Regulations are minimum regulations and apply uniformly to each class or kind of Structure, Sign, or land throughout the District. Regulation provisions shall be held to the minimum that protects and promotes the public health, safety and general welfare of the District.
- 1.3.2 Zoning Regulation Conformance.** All new construction is potentially subject to the provisions of these Regulations. Property owners are responsible for ensuring all activity within District boundaries conforms to these Regulations.

- 1.3.3 Exception.** Under certain circumstances, the Planning Department may exempt public utility pipelines, wells, or Structures necessary for provision of services required for public health and safety, from provisions of these Regulations.
- 1.3.4 Vesting.** An application made within the District is subject to the regulations in effect at the time the application is submitted.
- 1.3.5 Contradictions.** If the requirements of these Regulations conflict with the requirements of any other lawfully adopted rules, regulations or covenants, the most restrictive (or higher standard) shall govern.
- 1.3.6 Interpretations.** The Zoning Enforcement Agent, Code Compliance Specialist, Gallatin County Planning Board (“Planning Board”), and Gallatin County Commission (“County Commission”) can make official interpretations of the North Gallatin Canyon Zoning District Regulations, boundaries, and map. If questions arise concerning the appropriate classification of a particular use, or if the specific use is not listed, the County Commission shall determine the appropriate classification of that use.
- In interpreting a use classification, the County Commission shall consider the matter in an official meeting and determine that the use:
- A. Is compatible with the uses allowed in the District;
 - B. Is similar to one or more uses allowed in the District;
 - C. Will not adversely affect property in the neighborhood or the District; and
 - D. Will not abrogate the intent of the Growth Policy or these Regulations.
- 1.3.7 Natural Resources.** These Regulations may not prevent the complete use, development, or recovery of a mineral, forest, or agricultural resource, except as provided under § 76-2-209, MCA.

1.4 Intent and Purpose of Regulations.

- 1.4.1 Intent.** These Regulations have been made in accordance with § 76-2-201, MCA, *et seq.*, and the Growth Policy (adopted April 15, 2003) for the purpose of promoting the public health, safety, and general welfare.

Further, these Regulations give reasonable consideration to the character of the District and its peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land.

- 1.4.2 Purpose.** The purpose of the North Gallatin Canyon Zoning District is to promote and preserve the unique rural and scenic resources of the Gallatin Canyon, and to promote the safety of the traveling public along State Highway 191. The District also supports and

implements the Growth Policy, specifically Goal 3.11, "Conserve Scenic Resources and Views".

1.5 Establishment of Zoning Districts and Official Zoning Map.

1.5.1 Official Zoning Map. The official Zoning Map shall be available in the Office of the Gallatin County Clerk and Recorder and shall bear certificate with the signature of the Chairman of the County Commission attested by the Clerk and Recorder, and the date of adoption of the official Zoning Map. If any changes to the official Zoning Map are made by amendment of these Regulations in accordance with Section 2.5 hereof, such changes shall be made to the official Zoning Map and signed, dated and certified upon the map or upon documentation attached thereto.

1.5.2 Interpretation of Map Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the official Zoning Map, the boundaries shall be interpreted as following the nearest logical line to that shown. Boundaries indicated as approximately following the centerline of roads or highways shall be construed to follow such centerlines. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines. Boundaries indicated as following the centerline of streams, rivers, canals, or ditches shall be construed to follow such centerlines. Boundaries indicated as parallel to or extensions of features indicated on the official Zoning Map shall be determined by the scale of the map.

1.6 Invalidation and Severability

1.6.1 If any section, subsection, subdivision, sentence, clause, paragraph, or phrase of these Regulations, or any attachments hereto, is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of these Regulations to render the same operative and reasonably effective for carrying out the purposes and intentions of these Regulations.

SECTION 2 ADMINISTRATIVE PROVISIONS

2.1 Administration

2.1.1 Zoning Enforcement Agent. The Zoning Enforcement Agent is designated to be the Planning Department. The Planning Department supervises and enforces the provisions of these Regulations pursuant to § 76-2-210, MCA. This consists of, but is not limited to, issuing permits, enforcing violations, and reviewing applications for Variances, re-zoning requests, and amendments to these Regulations.

2.1.2 Code Compliance Specialist. The Code Compliance Specialist ensures compliance with the provisions of these Regulations in conjunction with the Planning Department. This consists of, but is not limited to, revoking permits, issuing cease and desist orders, requiring removal/dismantling of Structures or Signs, determining compliance with these Regulations, and issuing fines. All decisions made by the Code Compliance Specialist follow the same administrative and appeals procedures as that of the Planning Department.

2.1.3 Advisory Committee. The County Commission may create a non-remunerative advisory committee, of up to five (5) members, to make recommendations within the District. Advisory Committee members must be freeholders in the District. Advisory Committee members are appointed for two- (2) year staggered terms. Initially, two (2) members are appointed for one- (1) year terms and three (3) members are appointed for two- (2) year terms.

Advisory Committee recommendations are advisory only and are not binding upon the County Commission. Advisory Committee meetings are open to the public and noticed accordingly. The Advisory Committee may also notify the Planning Department of alleged violations within the District.

2.1.4 Board of Adjustment. Pursuant to § 76-2-221, MCA, the County Commission has appointed a five-member Gallatin County Consolidated Board of Adjustment (“BOA”). The Gallatin County Consolidated Board of Adjustment (BOA) shall have jurisdiction over all matters within the North Gallatin Canyon Zoning District. Those powers shall be:

- A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of these Regulations.
- B. To hear and decide Variances (special exceptions) to these Regulations that will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these Regulations will result in an unnecessary hardship, and so that the spirit of these Regulations is observed and substantial justice done.

- C. In exercising the above mentioned powers, the BOA may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or administrative determination made by the Planning Department/Code Compliance Specialist which is appealed. The BOA may make such order, requirement, decision, or determination as ought to be made and to that end shall have all of the powers of the officer from whom the appeal is taken, pursuant to § 76-2-223, MCA.
- D. The concurring vote of three members of the BOA shall be necessary to grant a variance, reverse any order, requirement, decision, or determination of any such administrative official, pursuant to § 76-2-224, MCA.

2.1.5 County Planning Board. The 11-member Gallatin County Planning Board (“Planning Board”) consists of resident freeholders serving in an advisory capacity to the County Commission. The Planning Board’s role is to make recommendations on the revision of boundaries and the amendment of regulations, pursuant to § 76-2-204, MCA, and § 76-2-205, MCA.

2.1.6 Schedule of Fees. The County Commission sets fees for all applications, including but not limited to permits, zone changes, official interpretations, and Variances. The County Commission will not take action on an item until fees are paid in full.

2.2 Non-Conforming Uses, Structures, and Signs

2.2.1 Intent. Within the district established by these Regulations, there exist land uses and Structures which were lawful prior to adoption of these Regulations, but no longer conform to present Regulation requirements. It is the intent of these Regulations to allow such Lots, uses and Structures to remain in their present state and location, with the exception of non-conforming Signs pursuant to Sections 2.2.4 and 3.4.2.E. However, such non-conformities shall not be enlarged upon, expanded, or extended, nor used as grounds for adding other Structures or uses prohibited by these Regulations.

Non-conforming uses are declared by these Regulations to be incompatible with allowed uses in the District. However, to avoid undue hardship, nothing in these Regulations shall be deemed to require a change in the plans, construction or designated use of any Structure on which actual construction lawfully began prior to the effective date of adoption or amendment to these Regulations. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Excavation, demolition, or removal of an existing Structure shall be deemed to be actual construction, provided such construction is carried on diligently and completed in a timely manner.

2.2.2 Non-Conforming Uses of Land. Where, at the time of the adoption of these Regulations, lawful land uses exist which would not be allowed by these Regulations, the use may be continued, with the exception of non-conforming Signs pursuant to Sections 2.2.4 and 3.4.2.E, so long as it remains otherwise lawful, provided:

- A. A non-conforming use shall not be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of these Regulations.
- B. A non-conforming use shall not be moved in whole or in part to any portion of the lot or parcel not occupied by such use at the effective date of adoption or amendment of these Regulations.
- C. If any such non-conforming land use ceases for any reason for a period of more than 12 months, any subsequent land use shall conform to these Regulations. If a seasonal non-conforming land use ceases for two consecutive seasons, then subsequent land use shall conform to these Regulations.
- D. Any non-conforming land use superseded by an allowed use shall thereafter conform to these Regulations and the non-conforming use may not thereafter be resumed.

2.2.3 Non-Conforming Structures. Where a Structure exists at the effective date of adoption or amendment of these Regulations that could not be built under the terms of these Regulations by reason of restriction on height, its location on the parcel, or other requirements concerning the Structure, such Structure may continue to exist, so long as it remains otherwise lawful, subject to the following provisions:

- A. A legal non-conforming Structure shall not be altered or enlarged in any way, which increases its non-conformity however, any Structure or portion thereof may be altered to decrease its non-conformity without approval from the County Commission.
- B. Should such non-conforming Structure or non-conforming portion of a Structure be destroyed by a catastrophic event, it may be reconstructed if it is rebuilt in substantially the same manner as it existed prior to destruction and does not require prior approval by the County Commission. Any Structure which is not substantially the same as the original Structure shall conform with the applicable provisions of these Regulations and applicable federal, state, and local building codes.
- C. Should such Structure be moved for any reason for any distance whatever, it shall thereafter conform to these Regulations.
- D. Any non-conforming Structure altered to conform to the regulations of the District shall thereafter remain in conformance with these Regulations.
- E. On any non-conforming Structure or portion of the Structure containing a non-conforming use, work may be done on ordinary repairs and fixtures, wiring, plumbing, or repair or replacement of non-load-bearing walls, to the extent not to exceed 15 percent of the replacement value of the Structure in any one year, provided that such work does not increase the cubic content of the Structure. The 15 percent does not apply to an interior or exterior remodeling that does not increase the cubic content or increase the building footprint of the Structure. Nothing in these Regulations shall be deemed to

prevent the strengthening or restoring to a safe condition of any Structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official or other person qualified to make such a declaration.

2.2.4 Non-Conforming Signs. Any Sign in existence on the date of the adoption of these Regulations not in conformance with these Regulations shall either be brought into conformance or eliminated within ten years from the date of adoption. Non-conforming Signs are further subject to the following requirements:

- A. No action shall be taken to increase a Sign's non-conformity. Changes in the information on the face of an existing non-conforming Sign are allowed.
- B. When any change, repair, or maintenance of an existing non-conforming Sign would constitute an expense of more than 25% of the original cost of the Sign, such non-conforming Sign shall either be brought into conformance or eliminated.

For "Outdoor Advertising Signs" regulated by the Montana Department of Transportation, "Original Cost" shall mean the "Estimated Cost of Construction" listed in the Department of Transportation Outdoor Advertising Permit Application for the Sign.

2.2.5 Determination of Status of Non-Conforming Land Uses, Structures, and Signs. It shall be the responsibility of the Planning Department/Code Compliance Specialist to determine the status of non-conforming land uses, Structures, and Signs. If the Planning Department/Code Compliance Specialist determines that a non-conforming land use, Structure, or Sign meets the applicable criteria in these Regulations, the land use, Structure, or Sign shall be given approved non-conforming status. The following procedures shall be followed to determine the status of non-conforming land uses, Structures, and Signs.

- A. The owner of record of subject use/Structure shall make an application for a determination of status of a land use, Structure, or Sign.
- B. It shall be the burden of the applicant to prove entitlement to approved non-conforming status by furnishing the Planning Department/Code Compliance Specialist with supporting information. Such information shall include, but not be limited to, septic or sewer hookup permits, building permits, business licenses, knowledge of the past history of the site, and dated photographs.
- C. The Planning Department/Code Compliance Specialist shall determine on a case-by-case basis whether a land use, Structure, or Sign is an existing non-conforming use, Structure, or Sign.
- D. Appeals of Planning Department/Code Compliance decisions may be submitted under the Administrative Appeal Process.

2.3 Permits

2.3.1 Land Use Permits. Land Use Permits are not required within the District.

2.3.2 Construction Permits. Construction Permits are not required within the District.

2.3.3 Conditional Use Permits. Conditional Use Permits are not required within the District.

2.3.4 Sign Permits. The construction or development of a new on-premise Permanent Sign greater than 16 square feet of Sign Area per Sign Face or the addition to or replacement of an existing Permanent Sign greater than 16 square feet of Sign Area per Sign Face pursuant to Section 3.4.2.A.i and 3.4.2.A.ii requires a Sign Permit prior to erection. No other allowed Signs require permits.

- A. **Process.** Prior to commencing construction, a landowner shall submit a Sign permit application (with accompanying fee) to the Planning Department for new Signs as defined by these Regulations. The Planning Department inspects applications to determine if projects comply with provisions of this Regulation within 30 days of receipt of a complete Sign Permit.
- B. **Appeals.** Appeals of Planning Department decisions may be submitted under the Administrative Appeal Process.
- C. **Expiration.** Sign permits expire if building or work authorized by the permit has not commenced within six (6) months from the original permit date and if work authorized by the permit is not completed within twelve (12) months of the original permit issuance date.

2.4 Variances

2.4.1 Intent. It is the intent of this section to provide a process for relief from the occasional inequities created by the physical standards of these Regulations when such standards create a substantially unequal burden on a particular parcel of land in a fashion that would otherwise prevent the reasonable use of the property owing to physical circumstances unique to that parcel. In addition, the intent of this section is to prohibit the granting of Variances that would be contrary to the public interest and endanger public health, safety and welfare. No Variance shall be granted to allow the use or development of property for a purpose not authorized within the District.

2.4.2 Criteria. In granting a Variance, the BOA shall issue findings setting forth factual evidence that the Variance:

- A. Will observe the intent and purpose of these Regulations, including the Growth Policy, and do substantial justice.
- B. Will not be injurious to the public health, safety, and general welfare.

- C. Will not be contrary to and will serve the public interest.
- D. Is necessary, owing to conditions unique to the property, to avoid unnecessary hardship which would unavoidably result from the enforcement of the literal meaning of these Regulations:
 - i. Hardship does not include self-imposed difficulties arising from actions by the applicant or previous predecessors in interest;
 - ii. Hardship does not include potential for greater financial returns; and
 - iii. Conditions unique to the property may include slope, presence of watercourses, after-the-fact imposition of additional regulations on previously lawful parcels, and governmental actions outside of the owner's control.
- E. Is the minimum relief necessary to provide reasonable use of the property.

2.4.3 Procedure. All Variance applications shall be submitted to the Planning Department on the required form with the accompanying fee. A hearing on the matter shall be scheduled before the BOA, and the BOA shall either approve or deny the application based on the facts. The BOA may impose reasonable conditions, as it may deem necessary to mitigate project impacts. The concurring vote of three members of the BOA shall be necessary to decide in favor, wholly or partly, of any Variance from these Regulations.

2.4.4 Notice. Notice of the public hearing shall be published at least once fifteen (15) days prior to the hearing in a newspaper of general circulation. Adjacent property owners shall be noticed by certified mail.

2.5 Amendments

2.5.1 Intent. These Regulations and the boundaries of the zoning map may be amended or revised whenever the public health, safety and general welfare requires such amendment. Amendments shall follow the procedure prescribed by § 76-2-201, MCA, *et seq.*, and set forth in these Regulations.

2.5.2 Procedure. An amendment may be initiated by submittal of one of the following to the Planning Department:

- A. The petition of one or more landowners in the District. The petition shall be filed on the required application and accompanied by the required fee; or
- B. Resolution of Intention of the County Commission.
- C. Resolution of Intention of the Planning Board.

2.5.3 Planning Board. The Planning Board shall make recommendations on the revision of boundaries and the amendments of these Regulations to the County Commission.

2.5.4 Hearing. The County Commission shall consider all proposed amendments at a public hearing. The County Commission may adopt the amendment in accordance with the procedure prescribed by § 76-2-205, MCA.

2.5.5 Notice. Notice of the public hearing on a proposed amendment shall be published in a newspaper of general circulation pursuant to § 76-2-205, MCA.

2.6 Appeals

2.6.1 Appeal from Planning Department/Code Compliance Specialist. The BOA shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination by the Planning Department/Code Compliance Specialist, and reverse or affirm, wholly or partly, or modify the order, decision, or determination of the Planning Department/Code Compliance Specialist.

A. An appeal from any final order, decision, or determination of the Planning Department/Code Compliance Specialist may be made to the BOA within 30 days after the decision is filed and served or, in the case of official interpretations of these Regulations and/or the official Zoning Map, within 30 days from the official interpretation. The appeal must be submitted to the Planning Department/Code Compliance Specialist via certified mail or hand delivery, be accompanied by the appeal fee as established by the County Commission, and state the basis for the appeal.

B. Upon receipt of appeal, a public hearing shall be scheduled before the BOA. Notice of the public hearing shall be sent to adjacent property owners via certified mail, and be published in a newspaper of general circulation at least once 15 days prior to the hearing.

2.6.2 Appeal from Board of Adjustment. Pursuant to § 76-2-227, MCA,, a decision from the BOA may be appealed to the Eighteenth Judicial District Court within 30 days from the date the decision is filed in the office of the board.

2.6.3 Appeal from County Commission. Those aggrieved by a decision made by the County Commission may present to the Eighteenth Judicial District Court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days of a decision made by a County Commission at a public hearing.

2.7 Complaints and Enforcement

2.7.1 Complaints. Any person may file a signed, written complaint with the Planning Department/Code Compliance Specialist addressing an alleged violation of these Regulations. The complaint shall fully describe the facts supporting the complaint.

- A. Upon receipt of a complaint or discovery of an alleged violation upon its own initiative, the Planning Department/Code Compliance Specialist may record and investigate an alleged violation, and determine if a violation exists. If the Planning Department /Code Compliance Specialist determines a violation exists, they shall take appropriate action to resolve the violation.
- B. The name of the person filing the complaint may remain confidential until the violation is remedied and/or there is a public hearing on the matter.

2.7.2 Investigations. When investigating an alleged violation, the Planning Department/Code Compliance Specialist shall review these Regulations and other applicable information, regulations, rules or laws regarding the alleged violation. The Planning Department/Code Compliance Specialist may inspect the alleged violation from public right-of-way, from a neighboring property or the site itself if permission has been granted for the inspection. Permission for access is assumed in the event an alleged violator has a permit application pending with the Planning Department. The investigator shall document the inspection with written notes and/or photographs as appropriate.

2.7.3 Administrative Remedies. If the Planning Department/Code Compliance Specialist finds any violation(s) of these Regulations, including conditions of approval for any permit, the Planning Department/Code Compliance Specialist shall attempt to obtain voluntary compliance pursuant to § 76-2-210, MCA. If informal contact does not remedy the violation, the Planning Department/Code Compliance Specialist may serve a written notice on persons responsible for corrective action necessary to remedy the violation(s). If 30 days after service of the notice the violation(s) has not been remedied or an agreement reached to remedy the violation(s), then further enforcement action may be taken as provided by these Regulations and at law.

- A. The Planning Department/Code Compliance Specialist shall: (i) revoke any Permit; (ii) issue orders to obtain after-the-fact permits; (iii) issue cease and desist orders requiring cessation of any building, moving, alteration or use which is in violation of these Regulations, (iv) require mitigation and/or corrective action, which may include orders to dismantle or remove noncompliant Structures to remedy the violation; (v) determine when compliance has been achieved; and/or (vi) take any other action authorized by these Regulations and law to insure compliance with, or prevent violation of its provisions.
- B. Persons liable for violations and compliance with any order, determination, decision, fine, penalty, proceeding, and remedial action shall include without limitation, any and all owners, tenants, leaseholders, builders, contractors, architects, agents or other persons

or entities that commits, maintains, participates, assists, causes or contributes to such violation; hereinafter “persons.”

- C. The owner of any land, Structure, Sign, premises, or part thereof, shall be held liable for any and all violations, remedies, remedial actions, fines, penalties, enforcement actions or proceedings, and shall be required to comply with any order, determination and decision of the Planning Department/Code Compliance Specialist. In addition to the owner, any person as defined herein shall each, jointly and severally, be held liable for any and all violations, remedies, remedial actions, fines, penalties, enforcement actions or proceedings, and shall be required to comply with any order, determination and decision of the Planning Department/Code Compliance Specialist.
 - D. Gallatin County and/or the Planning Department/Code Compliance Specialist shall have the right to proceed or take action jointly or severally against any or all persons, and the failure to proceed or take action against any person or persons shall not constitute a waiver of any rights or remedies whatsoever against any person or persons.
- 2.7.4 Administrative Fine.** In addition to the above, and upon a recommendation from the Planning Department/Code Compliance Specialist, the County Commission may, after a public meeting, duly notice and assess violators fines of up to \$500.00 per violation for noncompliance. Each day of violation may be considered a separate offense. When determining the amount and duration of the fine, the County Commission shall consider the nature, circumstances, extent and gravity of the violation, any prior history of such violations, the degree of culpability, and such other matters as justice may require. In addition, the violator may be required to pay administrative costs associated with the investigation. If the fine is not paid, it shall become a lien upon the property.
- 2.7.5 Injunction.** The County Commission, through the County Attorney or otherwise, may bring an action in the name of Gallatin County in the District Court to enforce these Regulations, which may include without limitation injunctive relief.
- 2.7.6 Remedies, Cumulative.** The remedies provided for herein shall be cumulative and not exclusive. The failure to enforce any provision(s) of these Regulations does not constitute a waiver of those provisions.

SECTION 3 ZONING STANDARDS

3.1 Purpose.

This section establishes the zoning standards specifically applicable to the North Gallatin Canyon Zoning District. The purpose of the District is to promote and preserve the unique rural and scenic resources of the Gallatin Canyon and to promote the safety of the traveling public along State Highway 191. The District also supports and implements the Growth Policy, specifically Goal 3.11, "Conserve Scenic Resources and Views".

3.2 Land Uses.

3.2.1 Uses Allowed By Right. All land uses are allowed in this zoning district. All Signs must meet the standards of Section 3.4.2.

3.3 Density.

Density is not defined by this Regulation. Landowners must receive approval from the Gallatin County Commission to subdivide property pursuant to the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. Applicants for exemption under the Montana Subdivision and Platting Act pursuant to § 76-3-201, MCA and § 76-3-207, MCA shall refer to the Gallatin County Subdivision Regulations.

3.4 Development Standards.

3.4.1 Structures. The construction or development of all new Structures, or the addition to an existing Structure of more than 50% of the internal square footage of the existing Structure, shall comply with the standards listed herein.

A. Height. Unless otherwise excepted by this Section, the height of all new Structures shall be limited to 40 feet as measured from the lowest point of the finished grade to the highest structural point of the roof.

*i. **Agricultural Structures:*** The construction of a new Agricultural Structure or the addition to an existing Agricultural Structure is not subject to the height limit.

*ii. **Wind Driven Electrical Generating Facilities:*** The construction or development of non-commercial wind driven electrical generating facilities that provide direct service only to a Structure or group of Structures on the same or adjacent tract(s) of record are not subject to the height limit.

B. Setbacks. Unless otherwise excepted by this Section, all Structures shall be set back from property lines a minimum of five (5) feet and must be located outside of any existing easements of record (utility, road, access, irrigation, pipelines, etc).

*i. **Accessory Structures:*** The construction of a new Accessory Structure or the addition to an existing Accessory Structure is not subject to the setback requirement.

- ii. **Decks:** The construction of a new deck or the addition to an existing deck is not subject to the setback requirement.
- iii. **Fences/Walls:** The construction or development of a fence or wall may be built directly on the property line and is not subject to the setback requirement.

3.4.2 Signs. The following standards apply to all Signs in the NGC District:

A. Signs Allowed. The following Signs shall be allowed.

- i. On-premise Permanent Signs with no more than 120 total square feet of Sign Area per Sign Face, with no more than two Sign Faces, and mounted with its highest point no higher than 24 feet above the existing grade. For Signs consisting of multiple elements supported by a single Structure, the total square footage of the Sign shall be the sum of the square footages of each individual element. On-premise Permanent Signs greater than 16 square feet of Sign Area per Sign Face require a permit pursuant to Section 2.3.4.

For example; a Sign assembly consisting of an oval element 8' wide by 4' tall (32 sq. ft.) and a rectangular element 6' wide by 4' tall (24 sq. ft.) enclosed within an open supporting Structure 10' wide by 17' high, shall be considered to be 56 sq. ft. per side (32' + 24').

- ii. Off-premise directional Signs of no more than 16 square feet of Sign Area per Sign Face, with no more than two Sign Faces, and mounted with its highest point no higher than 10 feet above the existing grade. Off-premise directional Signs shall carry only plain text messages and directional arrows, and shall be associated only with businesses or properties within the North Gallatin Canyon Zoning District.
- iii. On-premise Temporary Signs, including, but not limited to, banners, sandwich boards, yard Signs, real estate Signs, "For Sale" Signs, and political Signs, with no more than 120 total square feet of Sign Area per Sign Face, with no more than two Sign Faces, and mounted with its highest point no higher than 24 feet above the existing grade.

For example, a 14' wide by 10' high Sign painted on the side of a truck would not be allowed as it would exceed the size restriction.

- iv. Government or Official Signs and notices.

B. Prohibited Signs. The following Signs are prohibited:

- i. Signs constituting a nuisance or traffic hazard, including but not limited to:

- a. Signs that contain, include, or are illuminated by a flashing, intermittent, or moving light or lights, except those giving public service information such as the time, date, temperature, weather, or similar information; and
 - b. Signs not meeting the standards of Sections 3.4.2.C and 3.4.2.D
- ii. Off-Premise Outdoor Advertising Signs not meeting the standards of Section 3.4.2.A.ii.

C. Placement of Signs. All Signs must be placed on the premises of the landowner or the business associated with the Sign, except off-premise directional Signs described in 3.4.2.A.ii.

- i. Permanent Signs are subject to the setback requirements of Section 3.4.1.B.
- ii. No Sign shall be placed in or over any public right-of-way.
- iii. No Sign shall be placed where it creates a traffic safety hazard.

For example, by obscuring traffic control Signs or obstructing vision at intersections or driveways.

D. Sign Illumination. Signs may be illuminated internally, by neon tubes, or by external fixtures, subject to Section 3.4.2.B.

- i. Lighting fixtures must be selected, located, aimed, and shielded so that illumination is focused exclusively on the face of the Sign, and away from adjoining properties, the public right-of-way, and the night sky.
- ii. All light sources must be shielded from the direct, line of sight view of motorists.
- iii. Lighting of non-conforming Signs is not allowed.

E. Non-Conforming Signs. Any Sign in existence on the date of the adoption of these Regulations not in conformance with these Regulations shall either be brought into conformance or eliminated within ten years from the date of adoption. Non-conforming Signs are further subject to the following requirements:

- i. No action shall be taken to increase a Sign's non-conformity. Changes in the information on the face of an existing non-conforming Sign are allowed.
- ii. When any change, repair, or maintenance of an existing non-conforming Sign would constitute an expense of more than 25% of the original cost of the Sign, such non-conforming Sign shall either be brought into conformance or eliminated.

For “Outdoor Advertising Signs” regulated by the Montana Department of Transportation, “Original Cost” shall mean the “Estimated Cost of Construction” listed in the Department of Transportation Outdoor Advertising Permit Application for the Sign.

DRAFT

SECTION 4: DEFINITIONS

4.1 Definitions.

- 1.01 Intent.** To improve clarity and understanding of these Regulations, certain words and word combinations are defined herein.
- 1.02 Rules of Interpretation.** Words and word combinations shall first carry the meaning defined herein, followed by the meaning defined in the Growth Policy, followed by the customary meaning as defined in Webster's Dictionary. Additionally:
- A. The present tense shall include the future tense;
 - B. All words in the plural number shall include the singular number unless the natural construction of the wording indicates otherwise;
 - C. The word 'shall' indicates a mandatory action;
 - D. The word 'person' includes a firm, association, organization, partnership, trust, company, or corporation as well as the individual.

4.2 Glossary.

-A-

Accessory Structure. A subordinate Structure, or portion of the principal Structure, located on the same lot as the principal building, which is customarily incidental to the principal Structure. When part of an accessory Structure is connected to a part of the principal Structure by a common wall, such accessory Structure shall be counted as part of the principal Structure. Individual public utility installations aboveground are considered accessory buildings.

Agriculture. The use of the land for grazing or cropping to produce food, feed, and fiber commodities. Examples include, but are not limited to: cultivation and tillage of the soil; dairying and animal husbandry; growing and harvesting of agricultural and horticultural commodities; and the raising of livestock, bees or poultry; as well as post-harvest activities such as include uses such as farm stands and the sale of goods grown or produced as part of the agricultural operation. Does not include uses such as game farms, fur farms, animal hospitals, commercial dog kennels, horse stables, riding arenas, animal feeding operations or similar uses.

-N-

Non-Conforming Sign. Any Sign lawfully existing on the effective date of a regulation, or amendment thereto, that does not conform to all the standards and regulations of the adopted or amended regulation.

-P-

Principal Use. The use of land or Structures which constitutes the predominant use of a single property or group of properties in a contiguous area.

-S-

Sign. Any device, fixture, placard, or Structure that uses form, graphic, illumination, symbol, or writing to advertise, announce the purpose of a person or entity or to communicate information of any kind to the public.

Sign Area. The area encompassing the entire face of a Sign, including the advertising surface and any framing, trim, or molding, but not including the supporting Structure.

Sign Face. The area or display surface used for the message.

Sign, Motorist Information. An official Sign that contains the words “Gas”, “Food”, “Lodging”, or “Camping”, provides directional information, and one or more business Signs.

Sign, Official. Those Signs necessary for the health and safety of the traveling public. Including, but not limited to, Signs listing traffic or construction conditions, as well as Tourist-Oriented Directional Signs, LOGO Signs maintained by the Montana Motorist Information Sign Group per § 75-15-111(1)(g), MCA, and Motorist Information Signs.

Sign, Off-Premise Outdoor Advertising. Off-Premise Outdoor Advertising Sign means any Sign, display, device, notice, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way or any portion of an interstate highway or primary highway that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the Sign is located.

Sign, Permanent. A Sign attached, anchored, or applied to a building, Structure, or the ground in a manner requiring tools or equipment, and made of materials intended for more than a single years use.

Sign, Temporary. A Sign or advertising display constructed of cloth, canvas, plywood, or other light material and designed or intended to be displayed for a short period of time.

Sign, Tourist-Oriented Directional. A motorist information Sign located on the primary highway system to provide business identification and directional information for businesses, services, and activities of interest to tourists.

Structure. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. Does not include Signs.

-V-

Variance. A provision which allows modification to a regulation or waiver of the general development and building standards when a literal enforcement would result in unnecessary or undue hardship and the granting of the Variance is not contrary to the public's health, safety, and general welfare.

-Z-

Zoning Enforcement Agent. The duly authorized agent appointed by the County Commission for the purpose of administering and enforcing these Regulations. The Zoning Enforcement Agent is the Planning Department.

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